

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 13-14, 2006

Reference No.: 3.11
Information Item

From: CINDY McKIM
Chief Financial Officer

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Division Chief
Local Assistance

Subject: **NOTIFICATION OF AB 1012 “USE IT OR LOSE IT” PROVISION FOR FEDERAL FISCAL YEAR 2005 UNOBLIGATED CMAQ AND RSTP FUNDS**

SUMMARY:

Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Surface Transportation Program (RSTP) funds apportioned from the federal government are available for use by local agencies for four years. Assembly Bill (AB) 1012 (Chapter 783 of the Statutes of 1999) states that CMAQ and RSTP funds that are not obligated within the first three years of federal eligibility are subject to reprogramming by the California Transportation Commission (Commission) in the fourth year in order to prevent the funds from being lost to the State. The Department of Transportation (Department) is responsible for monitoring and reporting unobligated balances. Moreover, at the beginning of the third year, the Department provides notification to the local agencies of the unobligated CMAQ and RSTP balances that have one year remaining under the AB 1012 guidelines, prior to being subject to reprogramming.

The annual notice to regional agencies under Assembly Bill (AB) 1012 “Use It or Lose It” provisions for Federal Fiscal Year (FFY) 2005 (October 1, 2004 - September 30, 2005) funds was sent out on November 20, 2006. Based on September 2006 numbers, the total FFY 2005 funds subject to reprogramming under the provisions of AB 1012 are approximately \$134 million, including \$87 million of CMAQ (65 percent) and \$47 million (35 percent) of RSTP. The AB 1012 balances assume that all prior year funds subject to reprogramming will be obligated, extended, or reprogrammed, and therefore not included in this report.

The Department’s report on the closeout of FFY 2004 funds under the provisions of AB 1012 is under agenda item 3.10.

BACKGROUND:

The State annually receives CMAQ and RSTP funds from the Federal Highway Administration (FHWA). The regions receive a share of these apportionments to fund local projects.

The Intermodal Surface Transportation Efficiency Act (ISTEA) was enacted in 1991 and was in effect for six years. During that time, local agencies were able to obligate only 87 percent of their federal funding. The next Transportation Act, known as The Transportation Equity Act of the 21st Century (TEA-21), was signed into law in 1998. During the first two years of TEA-21, local agencies' obligation of federal funds dropped to a low of 41 percent. As a result, by October 1999, local agencies had accumulated a \$1.2 billion backlog in federal apportionments and \$854 million in OA.

AB 1012 was enacted October 10, 1999, with a goal of improving the delivery of transportation projects and addressing the backlog of local agencies' federal apportionments and OA. Local agencies have successfully met and exceeded this goal. Beginning in FFY 2000, and continuing through FFY 2006, local agencies have been able to obligate a minimum of 100 percent of the OA made available to them.

As a condition of AB 1012, the Department is required to notify the regions, on an annual basis, of the level of apportionments received that are subject to reprogramming.

In order to expend apportionments Local Agencies require OA. The FHWA has not yet released the total obligation authority for FFY 2007. Instead, a Continuing Resolution has provided OA. The Department has received OA for only 45 days, based on the previous year's total OA amount. At this time, it is not known when the full annual amount of OA for FFY 2007 will become available. The availability of OA limits the ability of Local Agencies to expend apportionments.

Attachments

**Apportionment Status Report
CMAQ and RSTP
as of September 30, 2006**

Reference No.: 3.11
Attachment 1

**AB 1012
Balances entering the 3rd Year
(from FFY 2005)
Report Summary**

Region	CMAQ Unobligated 9/30/2006 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2007 ²	RSTP Unobligated 9/30/2006 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2007 ²
Butte	531,496	-	-	-
Fresno	14,014,981	3,729,373	13,987,013	5,066,672
Kern	18,355,617	11,088,867	12,125,145	4,742,786
Kings	1,816,221	406,463	0	-
Los Angeles ³	151,160,964	23,406,877	64,359,390	-
Madera	1,561,145	187,086	-	-
Merced	1,517,805	-	0	-
Monterey	1,082,004	1,082,004	1,876,621	-
Orange	48,456,149	10,049,328	35,360,617	3,602,706
Riverside	33,115,478	9,050,722	37,628,073	20,385,292
Sacramento (SACOG) ⁴	(4,366,782)	-	7,367,680	-
San Benito	926,575	926,575	-	-
San Bernardino	46,419,214	21,722,214	23,683,869	4,610,716
San Diego	1,024,691	-	15,838,387	-
S.F. Bay Area (MTC)	25,426,162	-	15,732,329	-
San Joaquin	7,286,638	-	1,308,406	-
San Luis Obispo	-	-	1,495,741	-
Santa Barbara ⁵	(0)	-	-	-
Santa Cruz	881,760	881,760	(0)	-
Stanislaus	9,370,339	3,456,576	8,434,067	3,446,660
Tahoe	1,997,054	1,418,962	-	-
Tulare	3,307,646	-	-	-
Ventura	7,162,468	-	13,145,218	4,741,359
Rural Counties & SCAG	\$2,129,190	-	(\$1,799,258)	-
TOTAL	\$373,176,811	\$87,406,804	\$250,543,297	\$46,596,191

Footnotes:

¹ Indicates all apportionments not yet obligated.

² Totals reflect balance entering into the third year.

^{3,4,5} Includes adjustments made through MOU agreements between regions

Balances are adjusted for projects using the State's Advance Construction process.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.

**Apportionment Status Report
CMAQ and RSTP
as of September 30, 2006**

Reference No.: 3.11
Attachment 2

**AB 1012
Balance entering the 3rd Year
(from FFY 2005)
Rural County Summary**

Region	CMAQ Unobligated 9/30/2006 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2007 ²	RSTP Unobligated 9/30/2006 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2007 ²
Rural County Information:				
Del Norte	-	-	-	-
Humboldt	-	-	0	-
Lake	-	-	-	-
Mendocino	-	-	-	-
Lassen	-	-	-	-
Modoc	-	-	3	-
Plumas	-	-	2	-
Shasta	-	-	-	-
Siskiyou	-	-	(2)	-
Tehama	-	-	-	-
Trinity	-	-	(6)	-
Colusa	-	-	-	-
El Dorado ⁴	-	-	(3,352,284)	-
Glenn	-	-	-	-
Nevada ³	804,784	-	0	-
Placer ⁴	-	-	(701,841)	-
Sierra	-	-	(2)	-
Inyo	-	-	130	-
Mono	-	-	-	-
Alpine	-	-	-	-
Amador ³	311,802	-	-	-
Calaveras ³	378,568	-	-	-
Mariposa ³	148,357	-	-	-
Tuolumne ³	469,405	-	1	-
Imperial (SCAG) ³	16,274	-	2,254,739	-
Rural Combined Totals:	\$2,129,190	-	(\$1,799,258)	-

Footnotes:

¹ Indicates all apportionments not yet obligated.

² Totals reflect balance entering into the third year.

³ Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.

⁴ Balances for El Dorado County and Placer County are being reconciled to correct negative balances shown due to a coding error.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.